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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,954	12/02/2003	Jeffrey L. Sands	60246-296	2882
26096	7590	06/01/2006	EXAMINER KUMAR, RAKESH	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			ART UNIT 3654	

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/725,954	Applicant(s) SANDS ET AL.	
	Examiner Rakesh Kumar	Art Unit 3654	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Application filed 05/07/2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,4-9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufman et al. (U.S. Patent Number 5,33,5,816) in view of Cihanek (U.S. Patent Number 5,813,569).

3. Referring to claim 1. Kaufman discloses an apparatus for medication delivery system wherein a removable cartridge (104) for storing at least one item (102); and a platform (122) moveable within said removable cartridge (104) in response to a request for said at least one item.

Kaufman does not specifically disclose the apparatus as being a freezer.

Cihanek discloses a point of sale merchandiser Figure 3), which functions as a refrigerator to keep perishable items in the dispenser.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modifies the teachings of Kaufman and have included a freezer as taught by Cihanek to keep perishable items in the dispenser.

Regarding claims 4 and 7, Kaufman teaches of an apparatus including a removal device (138) and an exit opening (132), and said removal device (138) removes said at least one item (136) from the dispenser through said exit opening (132) in response to said request. Wherein said removal device is pivotal (Figure 7 and 8).

Regarding claim 5, Kaufman teaches of an apparatus wherein said platform (122) raises after said at least one item (102) exits said dispenser through said exit opening (132).

Regarding claim 6, Kaufman teaches of an apparatus further including a sensor input (Figure 12), and said removal device removes (138) said at least one item from said automated dispenser though said exit opening in response to said request when said sensor detects (input from user) said at least one item.

Regarding claim 8, Kaufman discloses an apparatus further including a controller (22) associated with the automated dispenser and a POS device, and wherein said request comprises a signal sent by said POS device (See Figure 12).

Regarding claim 9, Kaufman discloses an apparatus comprising a dispensing cartridge with a rectangular inner profile.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Kaufman in view of Cihanek and include a circular inner profile of the dispensing cartridge because a circular could carry circular objects.

Regarding claim 18, regarding method claim 18, although Kaufman in view of Cihanek do not explicitly disclose a method of using his apparatus, the method steps recited in the claim would inherently be performed when using the apparatus of Kaufman in view of Cihanek in its usual and expected fashion.

4. Claims 2, 3, 10 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufman in view of Cihanek as applied to claim 1 above, and further in view of Tansley (U.S. Patent Number 2,315,827).

5. Referring to claims 2 and 13-17. Tansley discloses a cup dispenser including a retention mechanism (31) to retain a portion of said at least one item (cup that is engaged) in the dispenser when said cartridge (10) is removed from the dispenser.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Kaufman in view of Cihanek and include a retention mechanism as taught by Tansley such that least one item is retained in the dispenser as the dispenser cartridge is replaced because the dispenser could still be used as the cartridge is being changed.

Regarding claim 3, Tansley further includes a buffer (36) defining an inner passage, said buffer (36) having a lower end (12) and said retention mechanism (31), wherein said cartridge (10) further includes an upper end (11), and said upper end (11) of said cartridge (10) is received in said lower end (12) of said buffer (36).

Regarding claim 10, Tansley discloses a cup dispenser including a dispenser cartridge 10.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Kaufman in view of Cihanek and include a circular cartridge as taught by Tansley. It would have been further obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Kaufman in view of Cihanek in view of Tansley such that the cartridge is composed of two equal halves each comprising a half circle opening at the bottom end of the half, such that when the two halves are joined they comprise a full circular opening at the bottom end of the cartridge.

6. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufman in view of Cihanek in view of Tansley as applied to claim 10 above, and further in view of Nigro (U.S. Patent Number 3,998,238).

7. Regarding claims 11 and 12, Nigro discloses a cup dispenser including a dispenser cartridge 10 wherein said platform (40) has a platform diameter and said

circular cutout (opening of container 12) has a cutout diameter, and said cutout diameter is greater than said platform diameter.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Kaufman in view of Cihanek in view of Tansley and include a circular cutout diameter greater than the cartridge platform diameter as taught by Nigro because the platform could easily move within the cartridge.

### ***Conclusion***

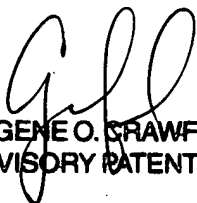
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rakesh Kumar whose telephone number is (517) 272-8314. The examiner can normally be reached on 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RK  
May 26, 2006

  
GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER